

The Earl of Cleveland his Case.

THat during the late Warr the said Earl contracted a great Debt, for which his Estate was Mortgaged to several persons.

That one *Richard Blackwell* (a Receiver of Prize-Goods in *Oliver's* time) had the Mortgage of the Mannors of *Stepney* and *Hackney* by Assignment.

That by Act of *Parliament*, 12 *Car. 2.* the Earl had his Equity of Redemption given him, and the Barons of His Majesties Court of *Exchequer* power for 7. years to settle Accounts; but if in that time the Debts were not paid, then the Mortgages who were in possession (as all were) to enjoy their Mortgages, Mannors, and Lands, against the Earl and his Heirs. In which ACT there was a *General Saving* of his Majesties and all others Rights. That the said *Blackwell* as Receiver of Prize-Goods, became indebted to His Majesty, which Debt by *Privy Seal* his Majesty gave to a *Scottishman* the Lady *Belhaven*, who taking advantage of the *General Saving*, will not suffer the Earl to redeem, (although he is willing and ready to pay her what shall be due to *Blackwell* upon a just account) but would have the Mannors of *Stepney* and *Hackney*, (being the greatest part of the Earls Estate) and hath kept the Earl in Suit, and still doth, untill the time given for *Redemption* be almost elapsed; although His Majesty hath declared to the Barons of the *Exchequer*, That he would take no Advantage of a forfeited Mortgage, nor never intended to Grant any such thing to the Lady *Belhaven*.

The desire in the Earls Bill is to have some farther time given him for *Redemption*, and that the *Saving* in the former ACT may be explained.

If this Bill doth not pass, the present Possessors will go away with his whole Estate, and the rest of his Creditors will be unpaid, and Himself and Family utterly undone.

The Objections made by the Lady Belhaven her Councill, against the Bill, are.

Object. 1. That by an Order made in the House of Peers in the Year 1641. the Mortgage was made absolute, and the Earl of Cleveland his Equity of Redemption taken away, and so was an absolute Estate in *Blackwell*, and consequently in his Majesty, and is saved by the Saving in the former ACT.

Object. 2. That His Majesty by *Privy Seal*, for the Consideration of a Debt of 9000 l. did grant *Blackwell's* Debt to the Lady *Belhaven*, and that she hath spent 3000 l. to recover it.

Answers to the said Objections.

Ans. 1. That the Order in the House of Lords was made in April 1641: By that Order it was provided, That the Lord *Banning* his Trustees should not dispose of any part of the Estate untill April 1642. and if the Earl did not redeem in that time, then Trustees might sell to pay their Debts; but were to leave Notice at Mr. *Stamps* Chamber in the Temple, of the Purchasor, and Price; And if the Earl in Two Months time after did procure a better price, his Purchasor was to have it.

That before the Year for *Redemption* was expired, the Earl and his Son the Lord *Wentworth*, did according to their Duty attend His Majesty, and by reason of those Times, could not stay at London to raise Money to redeem.

That no Notice was given according to the said Order, of any Purchasor or Price; That the Lord *Banning's* Trustees assigned the whole Mortgage only as a Mortgage to Mr. *Walcott*, and *Wallop* in Trust for Sir *William Smith* for their Principall and Interest; but did not sell the Mannors as an absolute Estate.

That the said Order and all other Arguments were urged by ~~William Smith~~ ^{John} (who was of Councill with the Purchasors under the said Mortgage) against the passing of the said former Act; by which Act the said Earl hath his Equity of Redemption adjudged unto him (notwithstanding the said Objections) in these words, (Page 3.) It is hereby Declared and Enacted, That the said Mortgaged Mannors and Lands, and all other Mortgages made since the Year 1630. by the said Earl and Lord *Wentworth*, or either of them, of any the Mannors and Lands mentioned in this Act, (and not excepted out of the same) are and ought to be still redeemed and redeemable by the Earl, and Lord *Wentworth* his Son, and their Heirs, as Forfeited Mortgages, in Course of Equity.

That the said Act is Confirmed by Act of this present Parliament; so that the Earls Equity of Redemption is already determined by this Present Parliament: And the said Earl no wayes doubts but the Parliament will continue of the same Opinion; And then the Earl must be Mortgagor, and *Blackwell* and all claiming under him, Mortgagees; Against whom, the said Earl ought to redeem within the intention of the *Saving*, because they claim under him.

Ans. 2. That His Majesty may grant *Blackwell's* Debt to the Lady *Belhaven*, or any other, as he pleaseth; And for so much as is due upon the Earls Estate to *Blackwell*, the Earl is willing to pay to the Kings Grantee upon the Account stated: And this the Earl hath offered to the Lady *Belhaven*; To recover which, she need not have spent one penny: But if she hath spent 3000 l. to recover it, What may the said Earl and his Son have spent to defend themselves against her? But besides all his Charges at Law, the said Earl may justly affirm, That he is damnified by the said Lady her Claim of the said *Blackwell's* Debt against the said Lands above 10000 l. He being thereby hindred in the Sale of his Lands, and forced to pay Interest for a vast Summ of Money, without any benefit received out of his Estate, being in the hands of the several Mortgagees; And the value of Lands being much lower then they were Four years since when he might have sold the same, if it had not been for the Incumbrance of the said *Privy Seal*.

And if there be any such Debt due from His Majesty to the Lady *Belhaven*, as she pretends, the Earl is well assured the KING doth not desire to pay it out of the small remainder of his Estate, which hath been almost destroyed by the late Warrs.